



MINUTES

April 06, 2022

### **Herkimer County Industrial Development Agency Board of Directors Meeting**

#### STAFF

JOHN J. PISECK, JR.  
Chief Executive Officer

STACEY J. HOLLERAN  
Chief Financial Officer

VICTORIA L. ADAMS  
Administration & Grant  
Coordinator

RYAN A. PALMIOTTO  
Marketing & Communications  
Specialist

#### BOARD OF DIRECTORS

VINCENT J. BONO  
Chairman

JOHN SCARANO  
Secretary

MICHAEL WERENCZAK  
Treasurer

CORY ALBRECHT  
Director

CATHERINE RICCI  
Director

ANN GAWORECKI  
Director

#### COUNSEL

ANTHONY G. HALLAK, Esq.  
Felt Evans, LLP

The Herkimer County Industrial Development Agency held a special meeting of the Board of Directors, as well as the Finance Committee on Wednesday, April 06, 2022 at 8:00 AM. The meeting was held electronically via zoom conference as well as a public meeting open for the public to attend in person. Members of the public were invited to join the meeting virtually by going to [www.zoom.com](http://www.zoom.com) or by dialing (929) 205-6099 and entering meeting ID: 840 9009 7478 and passcode: 898857. Members of the public were invited to attend the meeting in person in the Herkimer County Chamber of Commerce conference room at 420 E. German Street, Herkimer, NY 13350.

After the Pledge of Allegiance, Chairman Vincent (Jim) Bono called the **Finance Committee Meeting** to order at 8:00 AM.

**The following members were present in person and answered the roll call:** Vincent (Jim) Bono, Cory Albrecht, Michael Werenczak, John Scarano, Catherine (Cate) Ricci, Ann Gaworecki. **Quorum Present**

**Members Absent:** David Chlus

**Staff Present:** John Piseck, Victoria Adams, Ryan Palmiotto

**Also Present in Person:** Herkimer County Legislators: Schrader, Johnson, Stephens; Joseph Scott, Esq.

**Also Present Virtually:** James Wallace, Brian Raddock

Mr. Piseck stated the purpose of the special meeting is to move ahead with the Nathan Galinsky Preservation, LLC project located at 105 Protection Ave in the Village of Herkimer.

He introduced Mr. Joseph Scott, Esq. of Hodgson Russ LLP, Agency counsel for the project.

Mr. Scott spoke about the need for a meeting of the finance committee as it relates to the Public Authorities Accountability Act.

**Finance Committee Resolution:** After review and discussion, John Scarano made the following motion:

**RESOLUTION RECOMMENDING THE BOARD OF HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY CONSIDER ADOPTING A BOND RESOLUTION TO AUTHORIZE THE ISSUANCE BY HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY OF ITS TAX-EXEMPT MULTIFAMILY HOUSING REVENUE BONDS (NATHAN GALINSKY APARTMENTS PRESERVATION LLC PROJECT), SERIES 2022 IN THE**

**420 E. German Street, Box 1 Suite 101A, Herkimer, NY 13350 315-866-3000**

"This institution is an equal opportunity provider, employer and lender."

**AGGREGATE PRINCIPAL AMOUNT OF \$16,000,000 AND THE EXECUTION OF RELATED DOCUMENTS.**

The motion was seconded by Ann Gaworecki, with members voting via roll call as follows:

Vincent Jim Bono	VOTING	Yes
David Chlus	VOTING	Absent
John Scarano	VOTING	Yes
Michael Werenczak	VOTING	Yes
Ann Gaworecki	VOTING	Yes
Catherine Ricci	VOTING	Yes
Cory Albrecht	VOTING	Yes

The official resolution is attached to the original minutes. *Resolution: 040622-01*

Ann Gaworecki moved, seconded by Cory Albrecht to adjourn the Finance Committee Meeting at 8:10 AM.

Chairman Vincent (Jim) Bono called the **Special Meeting** to order at 8:11 AM.

**The following members were present in person and answered the roll call:** Vincent (Jim) Bono, Cory Albrecht, Michael Werenczak, John Scarano, Catherine (Cate) Ricci, Ann Gaworecki. **Quorum Present**

**Members Absent:** David Chlus

**Staff Present:** John Piseck, Victoria Adams, Ryan Palmiotto

**Also Present in Person:** Herkimer County Legislators: Schrader, Johnson, Stephens; Joseph Scott, Esq.

**Also Present Virtually:** James Wallace, Brian Raddock

**Cost Benefit Analysis:** Prior to the meeting, members of the board were provided the Cost Benefit Analysis for the project. The project is at a 1:1 ratio; however, it will assist lower-income elderly population.

**Project Summary:** Prior to the meeting, members of the board were provided a project synopsis which included details about the proposed project and prior actions by the Agency. After discussion, **Cate Ricci moved to approve the project summary as presented. The motion was seconded by Ann Gaworecki with members voting via roll call as follows:**

Vincent Jim Bono	VOTING	Yes
David Chlus	VOTING	Absent
John Scarano	VOTING	Yes
Michael Werenczak	VOTING	Yes
Ann Gaworecki	VOTING	Yes
Catherine Ricci	VOTING	Yes
Cory Albrecht	VOTING	Yes

*Resolution: 040622-02*

**SEQR Resolution:** Mr. Scott spoke about the SEQR resolution, which was provided to members of the board prior to the meeting. He stated that due to the fact that there would be no expansion on the existing structure or changes in the type of tenant with interior renovations only, there is no environmental impact. After discussion, **Cory Albrecht made the following motion:**

**RESOLUTION DETERMINING THAT ACTION TO UNDERTAKE A PROJECT FOR THE BENEFIT OF NATHAN GALINSKY APARTMENTS PRESERVATION LLC IS A "TYPE II ACTION" AND NO FURTHER ACTION IS REQUIRED UNDER SEQRA WITH RESPECT THERETO.**

The motion was seconded by Ann Gaworecki with members voting via roll call as follows:

Vincent Jim Bono	VOTING	Yes
David Chlus	VOTING	Absent
John Scarano	VOTING	Yes
Michael Werenczak	VOTING	Yes
Ann Gaworecki	VOTING	Yes
Catherine Ricci	VOTING	Yes
Cory Albrecht	VOTING	Yes

The official resolution is attached to the original minutes. *Resolution: 040622-03*

**PILOT Deviation Resolution:** Prior to the meeting, members of the board were provided a resolution authorizing a deviation from the Agency's Uniform Tax Exemption Policy. Mr. Piseck stated that with a project such as this, the PILOT amount is based on rents. After discussion, **Ann Gaworecki made the following motion:**

**RESOLUTION AUTHORIZING A DEVIATION FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY IN CONNECTION WITH THE PROPOSED PAYMENT IN LIEU OF TAX AGREEMENT TO BE ENTERED INTO BY THE AGENCY IN CONNECTION WITH THE PROPOSED NATHAN GALINSKY APARTMENTS PRESERVATION LLC PROJECT.**

The motion was seconded by Cate Ricci with members voting via roll call as follows:

Vincent Jim Bono	VOTING	Yes
David Chlus	VOTING	Absent
John Scarano	VOTING	Yes
Michael Werenczak	VOTING	Yes
Ann Gaworecki	VOTING	Yes
Catherine Ricci	VOTING	Yes
Cory Albrecht	VOTING	Yes

The official resolution is attached to the original minutes. *Resolution: 040622-04*

**Bond Resolution:** Prior to the meeting, members of the board were provided a resolution authorizing the bond required for the project. After discussion, **Michael Werenczak made the following motion:**

**RESOLUTION (A) AUTHORIZING THE ISSUANCE, AND SALE OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY TAX-EXEMPT MULTIFAMILY HOUSING REVENUE BONDS (NATHAN GALINSKY APARTMENTS PRESERVATION LLC PROJECT), IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT OF \$16,000,000; AND (B) THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS.**

The motion was seconded by Cory Albrecht with members voting via roll call as follows:

Vincent Jim Bono	VOTING	Yes
David Chlus	VOTING	Absent
John Scarano	VOTING	Yes
Michael Werenczak	VOTING	Yes
Ann Gaworecki	VOTING	Yes
Catherine Ricci	VOTING	Yes
Cory Albrecht	VOTING	Yes

The official resolution is attached to the original minutes. *Resolution: 040622-05*

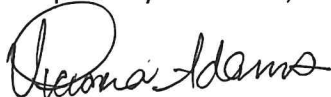
Mr. Scott provided members of affected taxing jurisdictions the opportunity to ask questions.

No questions were presented.

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Being no other business, Ann Gaworecki moved, seconded by Cory Albrecht to adjourn at 8:30 AM.  
Motion carried with 6 ayes and 0 nays.

Respectfully Submitted,



Victoria Adams,  
Administration & Grant Coordinator

**RESOLUTION TO RECOMMEND BOND RESOLUTION TO THE FULL BOARD  
NATHAN GALINSKY APARTMENTS PRESERVATION LLC PROJECT**

A special meeting of the members of the Finance Committee (the “Committee”) of the Herkimer County Industrial Development Agency (the “Agency”) was convened in public session at the office of the Agency located at 420 E. German Street, Suite 101A, Herkimer, New York on April 6, 2022 at 8:00 o’clock a.m., local time.

The meeting was called to order by the (Vice) Chairman of the Committee and, upon roll being called, the following members of the Committee were:

PRESENT:

Vincent James Bono	Chairman
John Scarano	Secretary
Michael Werenczak	Treasurer
Ann Gaworecki	Director
Catherine Ricci	Director
Cory Albrecht	Director

Each of the members of the Committee present participated in the meeting either in person or remotely pursuant to the signing into law on September 2, 2021 of Chapter 417 of the Laws of 2021, as amended on January 14, 2022.

ABSENT:

David Chlus	Vice Chair
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ISSUER STAFF PRESENT INCLUDED THE FOLLOWING:

John J. Piseck, Jr.	Chief Executive Officer
Victoria Adams	Administration & Grant Coordinator
Ryan Palmiotto	Marketing/Communication Specialist
A. Joseph Scott, III, Esq.	Bond Counsel

The following resolution was offered by John Scarano, seconded by Ann Gaworecki, to wit:

Resolution No. 0422-

RESOLUTION RECOMMENDING THE BOARD OF HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY CONSIDER ADOPTING A BOND RESOLUTION TO AUTHORIZE THE ISSUANCE BY HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY OF ITS TAX-EXEMPT MULTIFAMILY HOUSING REVENUE BONDS (NATHAN GALINSKY APARTMENTS PRESERVATION LLC PROJECT), SERIES 2022 IN THE AGGREGATE PRINCIPAL AMOUNT OF \$16,000,000 AND THE EXECUTION OF RELATED DOCUMENTS.

WHEREAS, pursuant to a requirement under Chapter 506 of the 2009 Laws of the State of New York (the “Public Authorities Reform Act”), the Finance Committee (the “Committee”) of the Herkimer County Industrial Development Agency (the “Agency”) was formed to review proposals for the issuance of debt by the Agency and its subsidiaries and to make recommendations on such issuances; and

WHEREAS, Nathan Galinsky Apartments Preservation LLC (the "Company"), has submitted an application (the "Application") to the Agency on or about October, 2021 a copy of which is on file at the office of the Agency, requesting the Agency to issue up to \$27,000,000 of its Tax-Exempt Multifamily Housing Revenue Bonds (Nathan Galinsky Apartments Preservation LLC Project), Series 2022, to be issued in one or more series (the "Bonds"), to assist in financing all or a portion of a certain project (the "Project") consisting of: (A) (1) the acquisition of an interest or interests in a parcel of land located at 105 Protection Avenue in the Village of Herkimer, Herkimer County, New York (the "Land"), together with the existing building located on the Land and known as the Nathan Galinsky Apartments (the "Facility"); (2) the reconstruction and renovation of the Facility, and (3) the acquisition and installation thereon and therein of various machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to constitute a housing facility containing approximately 112 apartment units to be owned and operated by the Company, and any other directly or indirectly related activities; (B) the financing of all or a portion of the costs of the foregoing by the issuance of taxable and/or tax-exempt revenue bonds of the Agency in one or more issues or series in an aggregate principal amount sufficient to pay all or a portion of the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to equal approximately \$16,000,000, but in any event not to exceed \$27,000,000 (the "Series 2022 Bonds"); (C) the payment of a portion of the costs incidental to the issuance of the Series 2022 Bonds, including issuance costs of the Series 2022 Bonds and any reserve funds as may be necessary to secure the Series 2022 Bonds; (D) the granting of certain other "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemption from certain sales taxes, deed transfer taxes, mortgage recording taxes and real property taxes (collectively with the Series 2022 Bonds, the "Financial Assistance"); and (E) the lease (with an obligation to purchase) or sale of the Project Facility to the Institution or such other person as may be designated by the Institution and agreed upon by the Agency; and

WHEREAS, Agency Staff and Bond Counsel have provided information to the Committee respecting the Project and the Series 2022 Bonds and the expected structuring of the documents related thereto; and

WHEREAS, the members of the Committee have reviewed such further information and have discussed same with Agency staff and Bond Counsel;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE COMMITTEE AS FOLLOWS:

Section 1. The Committee hereby finds and determines that neither the members, directors or officers of the Agency, nor any person executing the Series 2022 Bonds, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof. The Series 2022 Bonds and the interest thereon are not and shall never be a debt of the Issuer, the State of New York, or Herkimer County, New York or any political subdivision thereof, and neither the State of New York, or Herkimer County, New York nor any political subdivision thereof shall be liable thereon.

Section 2. Based on the foregoing, the members of the Committee would like to recommend that the Board of the Agency consider adopting a bond resolution that would authorize the issuance of the Series 2022 Bonds.

Section 3. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Vincent James Bono	VOTING	<u>YES</u>
David Chlus	VOTING	<u>ABSENT</u>
John Scarano	VOTING	<u>YES</u>
Michael Werenczak	VOTING	<u>YES</u>
Ann Gaworecki	VOTING	<u>YES</u>
Catherine Ricci	VOTING	<u>YES</u>
Cory Albrecht	VOTING	<u>YES</u>

The foregoing resolution was thereupon declared duly adopted.

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STATE OF NEW YORK        )  
                                      ) SS.:  
COUNTY OF HERKIMER     )

I, the undersigned, a member of the Finance Committee (the "Committee") of the Herkimer County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of Committee including the resolution contained therein held on April 6, 2022 with the original thereof on file in my office, and that the same is a true and correct copy of such proceedings of the Committee and of such resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Chapter 417 of the Laws of 2021, as amended on January 14, 2022 (the "2022 Laws"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given; and (D) there was a quorum of the members of the Agency, either in person or attending remotely in accordance with the 2022 Laws, throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this  
6<sup>th</sup> day of April, 2022.

BY: John Scam  
Secretary

(SEAL)

**SEQRA RESOLUTION**

**NATHAN GALINSKY APARTMENTS PRESERVATION LLC PROJECT**

A special meeting of the Herkimer County Industrial Development Agency (the "Agency") was convened in public session at the Herkimer County Chamber of Commerce Conference Room at 420 E. German Street, Suite 101A, Herkimer, New York on April 6, 2022 at 8:00 o'clock a.m., local time.

The meeting was called to order by the (Vice) Chairman of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

Vincent James Bono	Chairman
John Scarano	Secretary
Michael Werenczak	Treasurer
Ann Gaworecki	Director
Cory Albrecht	Director
Catherine Ricci	Director

Each of the members present participated in the meeting either in person or remotely pursuant to the signing into law on September 2, 2021 of Chapter 417 of the Laws of 2021, as amended on January 14, 2022.

**ABSENT:**

David Chlus	Vice Chairman
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**ISSUER STAFF PRESENT INCLUDED THE FOLLOWING:**

John J. Piseck, Jr.	Chief Executive Officer
Victoria Adams	Administration & Grant Coordinator
Ryan Palmiotto	Marketing/Communication Specialist
A. Joseph Scott, III, Esq.	Bond Counsel

The following resolution was offered by Cory Albrecht, seconded by Ann Gaworecki, to wit:

Resolution No. 0422-\_\_

RESOLUTION DETERMINING THAT ACTION TO UNDERTAKE A PROJECT FOR THE BENEFIT OF NATHAN GALINSKY APARTMENTS PRESERVATION LLC IS A "TYPE II ACTION" AND NO FURTHER ACTION IS REQUIRED UNDER SEQRA WITH RESPECT THERETO.

WHEREAS, Herkimer County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 410 of 1970 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 410 of the 1970 Laws of New York, as amended, constituting Section 898 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreation facilities, among others, for the purpose of promoting, attracting and developing

economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to issue its revenue bonds to finance the cost of acquisition, construction and installation of one or more “projects” (as defined in the Act), to acquire, construct and install said projects or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Nathan Galinsky Apartments Preservation LLC (the “Company”), has submitted an application (the “Application”) to the Agency on or about October, 2021 a copy of which is on file at the office of the Agency, requesting the Agency to issue up to \$27,000,000 of its Tax-Exempt Multifamily Housing Revenue Bonds (Nathan Galinsky Apartments Preservation LLC Project), Series 2022, to be issued in one or more series (the “Bonds”), to assist in financing all or a portion of a certain project (the “Project”) consisting of: (A) (1) the acquisition of an interest or interests in a parcel of land located at 105 Protection Avenue in the Village of Herkimer, Herkimer County, New York (the “Land”), together with the existing building located on the Land and known as the Nathan Galinsky Apartments (the “Facility”); (2) the reconstruction and renovation of the Facility, and (3) the acquisition and installation thereon and therein of various machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to constitute a housing facility containing approximately 112 apartment units to be owned and operated by the Company, and any other directly or indirectly related activities; (B) the financing of all or a portion of the costs of the foregoing by the issuance of taxable and/or tax-exempt revenue bonds of the Agency in one or more issues or series in an aggregate principal amount sufficient to pay all or a portion of the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to equal approximately \$15,000,000, but in any event not to exceed \$27,000,000 (the “Series 2022 Bonds”); (C) the payment of a portion of the costs incidental to the issuance of the Series 2022 Bonds, including issuance costs of the Series 2022 Bonds and any reserve funds as may be necessary to secure the Series 2022 Bonds; (D) the granting of certain other “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemption from certain sales taxes, deed transfer taxes, mortgage recording taxes and real property taxes (collectively with the Series 2022 Bonds, the “Financial Assistance”); and (E) the lease (with an obligation to purchase) or sale of the Project Facility to the Institution or such other person as may be designated by the Institution and agreed upon by the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA and the Regulations prior to making a final determination whether to undertake the Project; and

WHEREAS, pursuant to SEQRA, the Agency has examined (1) the Application, and (2) the Environmental Site Assessment prepared on behalf of the Company regarding the Project Facility in order to make a determination as to the potential environmental significance of the Project; and

WHEREAS, the Project appears to constitute a “Type II action” (as said quoted term is defined in the Regulations), and therefore it appears that no further determination or procedure under SEQRA is required with respect to the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Agency has received copies of, and has reviewed, the Application and, based upon said Application and the representations made by the Company to the Agency at this meeting, and based further upon the Agency's knowledge of the area surrounding the Project Facility and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project:

(A) The Project consists of (1) (i) the acquisition of an interest or interests in a parcel of land located at 105 Protection Avenue in the Village of Herkimer, Herkimer County, New York (the "Land"), together with the existing building located on the Land and known as the Nathan Galinsky Apartments (the "Facility"); (ii) the reconstruction and renovation of the Facility, and (iii) the acquisition and installation thereon and therein of various machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to constitute a housing facility containing approximately 112 apartment units to be owned and operated by the Company, and any other directly or indirectly related activities; (2) the financing of all or a portion of the costs of the foregoing by the issuance of taxable and/or tax-exempt revenue bonds of the Agency in one or more issues or series in an aggregate principal amount sufficient to pay all or a portion of the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to equal approximately \$15,000,000, but in any event not to exceed \$27,000,000 (the "Series 2022 Bonds"); (3) the payment of a portion of the costs incidental to the issuance of the Series 2022 Bonds, including issuance costs of the Series 2022 Bonds and any reserve funds as may be necessary to secure the Series 2022 Bonds; (4) the granting of certain other "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemption from certain sales taxes, deed transfer taxes, mortgage recording taxes and real property taxes (collectively with the Series 2022 Bonds, the "Financial Assistance"); and (5) the lease (with an obligation to purchase) or sale of the Project Facility to the Institution or such other person as may be designated by the Institution and agreed upon by the Agency.

(B) The Project consists of the replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site.

Section 2. Based upon the foregoing, the Agency makes the following findings and determinations with respect to the Project:

(A) Pursuant to Sections 617.5(c)(2) of the Regulations, the Project is a "Type II action" (as said quoted term is defined in the Regulations); and

(B) Therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations.

Section 3. The Chief Executive Officer of the Agency is hereby directed to file a copy of this resolution with respect to the Project in the office of the Agency.

Section 4. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Vincent James Bono	VOTING	<u>YES</u>
David Chlus	VOTING	<u>ABSENT</u>
John Scarano	VOTING	<u>YES</u>
Michael Werenczak	VOTING	<u>YES</u>
Ann Gaworecki	VOTING	<u>YES</u>
Catherine Ricci	VOTING	<u>YES</u>
Cory Albrecht	VOTING	<u>YES</u>

The foregoing resolution was thereupon declared duly adopted.

[Remainder of page left blank intentionally]

STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF HERKIMER                )

I, the undersigned (Assistant) Secretary of Herkimer County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the resolution contained therein, held on April 6, 2022 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Chapter 417 of the Laws of 2021, as amended on January 14, 2022 (the "2022 Laws"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given; and (D) there was a quorum of the members of the Agency, either in person or attending remotely in accordance with the 2022 Laws, throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 6<sup>th</sup> day of April, 2022.

(SEAL)

  
\_\_\_\_\_  
(Assistant) Secretary

**PILOT DEVIATION APPROVAL RESOLUTION  
NATHAN GALINSKY APARTMENTS PRESERVATION LLC PROJECT**

A special meeting of the Herkimer County Industrial Development Agency (the "Agency") was convened at the Herkimer County Chamber of Commerce Conference Room at 420 E. German Street, , Suite 101A Herkimer, New York, on April 6, 2022 at 8:00 o'clock a.m., local time.

The meeting was called to order by the (Vice) Chairman of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

Vincent James Bono	Chairman
John Scarano	Secretary
Michael Werenczak	Treasurer
Ann Gaworecki	Director
Cory Albrecht	Director
Catherine Ricci	Director

Each of the members of the Agency present participated in the meeting either in person or remotely pursuant to the signing into law on September 2, 2021 of Chapter 417 of the Laws of 2021, as amended on January 14, 2022.

**ABSENT:**

David Chlus	Vice Chairman
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**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

John J. Piseck, Jr.	Chief Executive Officer
Victoria Adams	Administration & Grant Coordinator
Ryan Palmiotto	Marketing/Communication Specialist
A. Joseph Scott, III, Esq.	Bond Counsel

The following resolution was offered by Ann Gaworecki, seconded by Catherine Ricci, to wit:

Resolution No. 0422-

RESOLUTION AUTHORIZING A DEVIATION FROM THE AGENCY'S UNIFORM TAX  
EXEMPTION POLICY IN CONNECTION WITH THE PROPOSED PAYMENT IN LIEU OF  
TAX AGREEMENT TO BE ENTERED INTO BY THE AGENCY IN CONNECTION WITH  
THE PROPOSED NATHAN GALINSKY APARTMENTS PRESERVATION LLC PROJECT.

WHEREAS, Herkimer County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 410 of 1970 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 410 of the 1970 Laws of New York, as amended, constituting Section 898 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreation

facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to issue its industrial development revenue bonds to finance the cost of the acquisition, construction, reconstruction and installation of one or more “projects” (as defined in the Act), to acquire, construct, reconstruct and install said projects or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Nathan Galinsky Apartments Preservation LLC (the “Company”), has presented an application (the “Application”) to the Agency, requesting that the Agency consider undertaking a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest or interests in a parcel of land located at 105 Protection Avenue in the Village of Herkimer, Herkimer County, New York (the “Land”), together with the existing building located on the Land and known as the Nathan Galinsky Apartment Project (the “Facility”); (2) the reconstruction and renovation of the Facility, and (3) the acquisition and installation thereon and therein of various machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to constitute a housing facility containing approximately 112 apartment units to be owned and operated by the Company; (B) the financing of all or a portion of the costs of the foregoing by the issuance of taxable and/or tax-exempt revenue bonds of the Agency in one or more issues or series in an aggregate principal amount sufficient to pay all or a portion of the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to equal approximately \$15,000,000, but in any event not to exceed \$27,000,000 (the “Bonds”); (C) the payment of a portion of the costs incidental to the issuance of the Bonds, including issuance costs of the Bonds and any reserve funds as may be necessary to secure the Bonds; (D) the granting of certain other “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemption from certain sales taxes, deed transfer taxes, mortgage recording taxes and real property taxes (collectively with the Bonds, the “Financial Assistance”); and (E) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on November 17, 2021 (the “Preliminary Inducement Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Preliminary Inducement Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Issuer (the “Public Hearing”) pursuant to Section 859-a of the Act and Section 147(f) of Internal Revenue Code of 1986, as amended (the “Code”), to hear all persons interested in the Project and the financial assistance being contemplated by the Issuer with respect to the Project, to be mailed on January 12, 2022 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on January 12, 2022 at the Herkimer County Office Building located at 109 Mary Street, in the Village of Herkimer, Herkimer County, New York and on the Issuer’s website, (C) caused notice of the Public Hearing to be published on January 12, 2022 in The Time Telegram, a newspaper of general circulation available to the residents of Town of Herkimer, Herkimer County, New York, (D) conducted the Public Hearing on January 25, 2022 at 8:00 o’clock a.m., local time at Herkimer County Chamber Conference Room located at 420 E. German Street, in the Town of Herkimer, Herkimer County, New York, and (E) prepared a report of the Public Hearing (the “Report”) fairly

summarizing the views presented at such Public Hearing and caused copies of said Report to be made available to the members of the board of directors of the Issuer and to the County Legislature of Herkimer County; and

WHEREAS, by a resolution executed by the County Legislature of Herkimer County (the "County Legislature") on February 16, 2022 (the "TEFRA Approval"), the County Legislature approved the issuance of the Bonds for purposes of Section 147(f) of the Code; and

WHEREAS, in connection with the Project, the Company has requested that the Agency deviate from its uniform tax exemption policy (the "Policy") with respect to the terms of the PILOT Agreement; and

WHEREAS, pursuant to Section 874(4) of the Act, prior to taking final action on such request for a deviation from the Policy, the Agency must give the chief executive officers of the County and each city, town, village and school district in which the Project Facility is located (collectively, the "Affected Tax Jurisdictions") written notice of the proposed deviation from the Policy and the reasons therefor prior to the meeting of the Agency at which the members of the Agency shall consider whether to approve such proposed deviation; and

WHEREAS, the members of the Agency authorized the Chief Executive Officer to notify the Affected Tax Jurisdictions of the proposed deviation from the Policy in connection with the Project, which proposed deviation is outlined in the letter dated March 25, 2022 (the "PILOT Deviation Letter"), a copy of which PILOT Deviation Letter is attached hereto as Exhibit A; and

WHEREAS, pursuant to the PILOT Deviation Letter, the Chief Executive Officer notified the chief executive officers of the Affected Tax Jurisdictions of the proposed deviation from the Policy and further notified said chief executive officers that the members of the Agency would consider whether to approve such proposed deviation at this meeting;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency hereby finds and determines as follows:

(A) The Agency has considered any and all responses from the Affected Tax Jurisdictions to the PILOT Deviation Letter.

(B) The Agency has reviewed and responded to all written comments received from any Affected Tax Jurisdiction with respect to the proposed deviation.

(C) The Agency has given all representatives from an Affected Tax Jurisdictions in attendance at this meeting the opportunity to address the members of the Agency regarding the proposed deviation.

Section 2. Based upon (A) the findings and determinations in Section 1 above, (B) any comments received at the Public Hearing, (C) input received at this meeting from the Affected Tax Jurisdictions with respect to the proposed deviation, (D) the Agency's knowledge of the Project, (E) the recommendations of Agency staff, and (F) such further investigation of the Project and the effect of the proposed deviation as the Agency has deemed appropriate, the Agency hereby determines to deviate from the Policy with respect to the terms of the PILOT Agreement for the reasons set forth in the PILOT Deviation Letter. Based upon the aforementioned, the Agency hereby approves a deviation from the Policy, the terms of the approved deviation to be as described in the attached PILOT Deviation Letter.

Section 3. Upon preparation by counsel to the Agency of the PILOT Agreement with respect to the Project Facility reflecting the terms of this resolution and approval of same by the Chairman or Vice Chairman of the Agency, the Chairman or Vice Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the PILOT Agreement, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in such form as is approved by the Chairman or Vice Chairman of the Agency, the execution thereof by the Chairman or Vice Chairman of the Agency to constitute conclusive evidence of such approval.

Section 4. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the PILOT Agreement, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the PILOT Agreement binding upon the Agency.

Section 5. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Vincent James Bono	VOTING	<u>YES</u>
David Chlus	VOTING	<u>ABSENT</u>
John Scarano	VOTING	<u>YES</u>
Michael Werenczak	VOTING	<u>YES</u>
Ann Gaworecki	VOTING	<u>YES</u>
Cory Albrecht	VOTING	<u>YES</u>
Catherine Ricci	VOTING	<u>YES</u>

The foregoing resolution was thereupon declared duly adopted.

[Remainder of page left blank intentionally]

STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF HERKIMER                )

I, the undersigned Secretary of Herkimer County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the resolution contained therein, held on April 6, 2022 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Chapter 417 of the Laws of 2021, as amended (the "2022 Laws"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given; and (D) there was a quorum of the members of the Agency, either in person or attending remotely in accordance with the 2022 Laws, throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 6<sup>th</sup> day of April, 2022.

  
Secretary

(SEAL)

**EXHIBIT A**  
**PILOT DEVIATION LETTER**

**-SEE ATTACHED-**

HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
420 E. German Street, Suite 101A  
Herkimer, New York 13350  
Tel: 315-866-3000

March 25, 2022

Hon. Vincent J. Bono, Chairman  
Herkimer County Legislature  
109 Mary Street, Suite 1310  
Herkimer, New York 13350

Gary Tutty, Interim Superintendent of Schools  
Herkimer Central School District  
801 West German Street  
Herkimer, New York 13350

Hon. Dominic J. Frank, Town Supervisor  
Town of Herkimer  
114 North Prospect Street  
Herkimer, NY 13350

Brian Crandall, President  
Herkimer Central School District  
Board of Education  
801 West German Street  
Herkimer, New York 13350

Hon. Mark Netti, Mayor  
Village of Herkimer  
120 Green Street  
Herkimer, New York 13350

RE: Proposed Deviation from Uniform Tax Exemption Policy by  
Herkimer County Industrial Development Agency in connection with its Proposed  
Nathan Galinsky Apartments Preservation LLC Project

Dear Gentlemen:

This letter is delivered to you pursuant to Section 874(4)(b) of the General Municipal Law.

Herkimer County Industrial Development Agency (the "Agency") received an application (the "Application") from Nathan Galinsky Apartments Preservation LLC (the "Company"), which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project to consist of the following: (A) (1) the acquisition of an interest or interests in a parcel of land located at 105 Protection Avenue in the Village of Herkimer, Herkimer County, New York (the "Land"), together with the existing building located on the Land and known as the Nathan Galinsky Apartments (the "Facility"); (2) the reconstruction and renovation of the Facility, and (3) the acquisition and installation thereon and therein of various machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to constitute a housing facility containing approximately 112 apartment units to be owned and operated by the Company, and any other directly or indirectly related activities; (B) the financing of all or a portion of the costs of the foregoing by the issuance of taxable and/or tax-exempt revenue bonds of the Agency in one or more issues or series in an aggregate principal amount sufficient to pay all or a portion of the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to equal approximately \$16,000,000, but in any event not to exceed \$27,000,000 (the "Obligations"); (C) the payment of a portion of the costs incidental to the issuance of the Obligations, including issuance costs of the Obligations and any reserve funds as may be necessary to secure the Obligations; (D) the granting of certain other "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemption from certain

sales taxes, deed transfer taxes, mortgage recording taxes and real property taxes (collectively with the Obligations, the “Financial Assistance”); and (E) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

In connection with the Application, the Company has made a request to the Agency to enter into a payment in lieu of tax agreement (the “Proposed Pilot Agreement”). In connection with the consideration of the Proposed Pilot Agreement, the Agency is considering deviating from the Agency’s Uniform Tax Exemption Policy (the “Policy”). Capitalized terms not otherwise defined herein are defined in the Policy.

The Proposed Pilot Agreement would not provide any abatements for any special assessments levied on the Project Facility.

The Proposed Pilot Agreement will provide that the Company be granted a payment in lieu of tax agreement with respect to the Facility and any portion of the Equipment assessable as real property pursuant to the New York Real Property Tax Law (collectively, with the Facility, the “Improvements”). The term of the Proposed Pilot Agreement would equal the term of the Obligations to be issued by the Agency, which term is currently estimated to equal approximately 15 years, but in any event not to exceed 30 years. The Company will be required to make annual payments to the Treasurer of Herkimer County, for distribution among the affected tax jurisdictions, in an amount equal to ten percent (10%) of the aggregate collected annual tenant paid rents generated by the Project Facility, which includes rent supplements and subsidies received from the federal government, the State, or a municipality on behalf of such tenants, less the aggregate annual owner paid utilities. Pursuant to Section 874 of the General Municipal Law and Section 3(C) of the Policy, unless otherwise agreed by the affected tax jurisdictions, payments in lieu of taxes will be allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the Project Facility not been tax exempt due to the status of the Agency:

The terms of the Proposed Pilot Agreement deviate from the Agency’s Policy. The Policy provides that, for a facility similar to the Project Facility, payments in lieu of taxes would normally be real property tax abatements equal to that provided pursuant to Section 485-b of the Real Property Tax Law, more particularly described in the table below:

<b><u>Pilot Payment Year</u></b>	<b><u>Abatement</u></b>
1	50%
2	45%
3	40%
4	35%
5	30%
6	25%
7	20%
8	15%
9	10%
10	5%
11	100% Taxable

The purpose of this letter is to inform you of the Company’s request and that the Agency is considering whether to grant the request and to approve a Proposed Pilot Agreement conforming to the terms of the request. The Agency expects to consider whether to approve the terms of the Proposed Pilot Agreement at a

special meeting scheduled for April 6, 2022 at 8:00 a.m., local time at the offices of the Agency located at 420 E. German Street, Suite 101A, Herkimer, Herkimer County, New York (the "Meeting"). As described later in this letter, during the meeting on April 6, 2022, the Agency will review the terms of the request and, based on the discussions during such meeting the terms of the request may be modified.

This letter is forwarded to you for purposes of complying with Section 874 of the General Municipal Law of the State of New York and the Policy, which requires written notice prior to the Agency taking final action with respect to the Proposed Pilot Agreement (if said Proposed Pilot Agreement may deviate from the provisions of the Agency's Policy).

The Agency considered the following factors in considering the proposed deviation:

1. **The nature of the Project:** The Project involves the reconstruction and renovation of an existing senior affordable housing facility.
2. **The present use of the property:** The present use of the property consists of existing affordable senior housing units.
3. **The economic condition of the area at the time of the request of the Company and the economic multiplying effect that the Project will have on the area:** At the time of the filing of the Application, the economic condition of the area in which the Project Facility is to be located is considered a "highly distressed area" as defined in the Act. The reconstruction and renovation of the Project Facility will provide for the continued affordable residential options for senior citizens. Such residential options potentially provide customers for business and entertainment facilities located within Herkimer County. Additional benefits created by the Project are described in the Application
4. **The extent to which the Project will create or retain permanent, private sector jobs and the number of jobs to be created or retained and the salary range of such jobs:** The Company has estimated that the Project will retain approximately 3.5 service jobs, with an average annual salary of \$33,656. The Company has also represented that, for the planned renovation of the Property, it hopes to utilize local labor by conducting job outreach through postings on local media and at job fairs.
5. **The estimated value of new tax exemptions to be provided:** The estimated value of the tax exemptions are the following: approximately \$373,601.25 of sales and use tax; approximately \$150,000 of mortgage recording tax; and approximately \$1,871,453.60 of real property taxes.
6. **The economic impact of the Proposed Pilot Agreement on affected tax jurisdictions:** The Proposed PILOT Agreement is expected to provide a net benefit to the affected tax jurisdictions in the form of increased municipal revenues under the Proposed PILOT Agreement when compared to the current amounts being paid relating to the Project site.
7. **The impact of the Proposed Pilot Agreement on existing and proposed businesses and economic development projects in the vicinity:** The impact of the Project is a positive one on the community, as it retains jobs and economic activity in the community and the provision of improved senior housing pursuant to the Project addresses senior housing needs in Herkimer County.

8. **The amount of private sector investment generated or likely to be generated by the Project:** approximately \$27,000,000.

9. **The effect of the Project on the environment:** It is likely that the Project will not have a significant effect on the environment.

10. **Project Timing:** It is anticipated that the Project will be accomplished in a timely fashion.

11. **The extent to which the Project will require the provision of additional services including, but not limited to, additional educational, transportation, police, emergency medical or fire services:** The Project consists of the reconstruction and renovation of the Project Facility. It is not anticipated that the Project will have any increased impacts on any school district within the Herkimer County, or increase any burdens on any other municipal services, including emergency medical and police services.

12. **Anticipated tax revenues:** It is expected that sales tax collections will increase due to retained employment and increased residential units at the reconstructed and renovated Facility.

13. **The extent to which the Project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the Project Facility is located:** The benefit is a positive one economically, in that the Proposed PILOT Agreement will assist with reconstruction and renovation of the Facility, which will potentially offer affordable housing options to senior citizens which is a growing need as the nation's population ages.

The Agency will consider the Proposed Pilot Agreement (and the proposed deviation from the Agency's Policy) at the Meeting. The discussion at the Meeting will include a review of (a) the terms of the Company's request, (b) other projects where the Agency has approved a deviation from its Policy, and (c) the information contained in this letter and other materials provided by the Company supporting the request. Based on the discussion at the Meeting, and the review of any comments received by the Agency with respect to the Company's request, the Agency may determine to modify the terms of the request.

The Agency would welcome any written comments that you might have on this proposed deviation from the Agency's Policy. Prior to taking final action at the Meeting, the Agency will review and respond to any written comments received from any affected tax jurisdiction with respect to the proposed deviation. The Agency will also allow any representative of any affected tax jurisdiction present at the Meeting to address the Agency regarding the proposed deviation.

If you have any questions or comments regarding the foregoing, please do not hesitate to contact me at the above telephone number.

Sincerely yours,

HERKIMER COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: /s/ John J. Piseck, Jr.  
Chief Executive Officer

**BOND RESOLUTION  
NG HERKIMER APARTMENTS PRESERVATION LLC PROJECT**

A special meeting of the Herkimer County Industrial Development Agency (the "Agency") was convened in public session at the Herkimer County Chamber of Commerce Conference Room at 420 E. German Street, Suite 101A, Herkimer, New York on April 6, 2022 at 8:00 o'clock a.m., local time.

The meeting was called to order by the (Vice) Chairman of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

Vincent James Bono	Chairman
John Scarano	Secretary
Michael Werenczak	Treasurer
Ann Gaworecki	Director
Cory Albrecht	Director
Catherine Ricci	Director

Each of the members present participated in the meeting either in person or remotely pursuant to the signing into law on September 2, 2021 of Chapter 417 of the Laws of 2021, as amended on January 14, 2022.

**ABSENT:**

David Chlus	Vice Chairman
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**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

John J. Piseck, Jr.	Chief Executive Officer
Victoria Adams	Administration & Grant Coordinator
Ryan Palmiotto	Marketing/Communication Specialist
A. Joseph Scott, III, Esq.	Bond Counsel

The following resolution was offered by Michael Werenczak, seconded by Cory Albrecht, to wit:

Resolution No: 0422-

RESOLUTION (A) AUTHORIZING THE ISSUANCE, AND SALE OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY TAX-EXEMPT MULTIFAMILY HOUSING REVENUE BONDS (NATHAN GALINSKY APARTMENTS PRESERVATION LLC PROJECT), IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT OF \$16,000,000; AND (B) THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS.

WHEREAS, Herkimer County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 410 of 1970 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 410 of the 1970 Laws of New York, as amended, constituting Section 898 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing,

improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to issue its revenue bonds to finance the cost of acquisition, construction and installation of one or more “projects” (as defined in the Act), to acquire, construct and install said projects or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Nathan Galinsky Apartments Preservation LLC (the “Company”), has submitted an application (the “Application”) to the Agency on or about October, 2021 a copy of which is on file at the office of the Agency, requesting the Agency to issue up to \$27,000,000 of its Tax-Exempt Multifamily Housing Revenue Bonds (Nathan Galinsky Apartments Preservation LLC Project), Series 2022, to be issued in one or more series to assist in financing all or a portion of a certain project (the “Project”) consisting of: (A) (1) the acquisition of an interest or interests in a parcel of land located at 105 Protection Avenue in the Village of Herkimer, Herkimer County, New York (the “Land”), together with the existing building located on the Land and known as the Nathan Galinsky Apartments (the “Facility”); (2) the reconstruction and renovation of the Facility, and (3) the acquisition and installation thereon and therein of various machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to constitute a housing facility containing approximately 112 apartment units to be owned and operated by the Company, and any other directly or indirectly related activities; (B) the financing of all or a portion of the costs of the foregoing by the issuance of taxable and/or tax-exempt revenue bonds of the Agency in one or more issues or series in an aggregate principal amount sufficient to pay all or a portion of the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to equal approximately \$15,000,000, but in any event not to exceed \$27,000,000 (the “Series 2022 Bonds”); (C) the payment of a portion of the costs incidental to the issuance of the Series 2022 Bonds, including issuance costs of the Series 2022 Bonds and any reserve funds as may be necessary to secure the Series 2022 Bonds; (D) the granting of certain other “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemption from certain sales taxes, deed transfer taxes, mortgage recording taxes and real property taxes (collectively with the Series 2022 Bonds, the “Financial Assistance”); and (E) the lease (with an obligation to purchase) or sale of the Project Facility to the Institution or such other person as may be designated by the Institution and agreed upon by the Agency; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the board of directors of the Agency on November 17, 2021 (the “Preliminary Inducement Resolution”), the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), to hear all persons interested in the Initial Project and the financial assistance being contemplated by the Agency with respect to the Initial Project, to be mailed on January 12, 2022 to the chief executive officers of the county and of each city, town, village and school district in which the Initial Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on January 12, 2022 at the Herkimer County Office Building located at 109 Mary Street, in the Village of Herkimer, Herkimer County, New York and on the Agency’s website, (C) caused notice of the Public Hearing to be published on January 12, 2022 in The Times Telegram, a newspaper of general circulation available to the residents of Town of Herkimer, Herkimer County, New York, (D) conducted the Public Hearing on January

25, 2022 at 8:00 o'clock a.m., local time at Herkimer County Chamber Conference Room located at 420 E. German Street, in the Town of Herkimer, Herkimer County, New York, and (E) prepared a report of the Public Hearing (the "Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Report to be made available to the members of the board of directors of the Agency and to the County Legislature of Herkimer County; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on April 6, 2022 (the "SEQR Resolution"), the Agency determined (A) that pursuant to Sections 617.5(c)(2) of the Regulations, the Project is a "Type II action" (as said quoted term is defined in the Regulations), and (B) that, therefore, no environmental impact statement or any other determination or procedure was required under the Regulations; and

WHEREAS, pursuant to Section 874(4) of the Act: (A) the Agency's Uniform Tax Exemption Policy (the "UTEP Policy") provides a standardized method for the determination of payments in lieu of taxes for a facility similar to the Project Facility, (B) in connection with the Application, the Company made a request to the Agency (the "Pilot Request") that the Agency deviate from the UTEP Policy with respect to Project Facility, (C) the Chief Executive Officer of the Agency caused a letter dated March 25, 2022 (the "Pilot Deviation Notice Letter") to be mailed to the chief executive officers of the "affected tax jurisdictions" (within the meaning of such quoted term in Section 854(16) of the Act) (the "Affected Tax Jurisdictions") pursuant to Section 874(4) of the Act, informing said individuals that the Agency would, at its special meeting on April 6, 2022, consider a proposed deviation from the Policy with respect to the payment in lieu of tax agreement to be entered into by the Agency with respect to the Project Facility (the "Payment in Lieu of Tax Agreement"), and the reasons for said proposed deviation; and (D) by resolution adopted by the members of the Agency on April 6, 2022 (the "Pilot Deviation Approval Resolution"), the members of the Agency determined to deviate from the Policy with respect to the Project and approved a proposed deviation from the Policy with respect to the terms of the Payment in Lieu of Tax Agreement to be entered into by the Agency with respect to the Project Facility; and

WHEREAS, the Company reasonably expects that it will (i) pay or incur certain capital expenditures in connection with the Project prior to the issuance of the Series 2022 Bonds, (ii) use funds from sources other than proceeds of the Series 2022 Bonds which are or will be available on a short-term basis to pay for such capital expenditures, and (iii) reimburse itself for the use of such funds with proceeds of the Series 2022 Bonds; and

WHEREAS, it is contemplated that the Series 2022 Bonds will be issued as Multifamily Housing Revenue Bonds and, as such, pursuant to Section 142(d) of the Code, at least ninety-five percent (95%) of the net proceeds of the Series 2022 Bonds must be used to provide a "qualified residential rental project," as defined in Section 142 of the Code to include a project for residential rental property where, for a period of at least as long as the Affordable Housing Revenue Bonds remain outstanding, at least twenty percent (20%) of such units are occupied by individuals whose income is fifty percent (50%) or less of Area Median Gross Income as determined by the United States Department of Housing and Urban Development ("HUD") or at least forty percent (40%) of such units are occupied by individuals whose income is sixty percent (60%) or less of Area Median Gross Income as determined by HUD; and

WHEREAS, the Agency now desires to authorize the issuance of the Series 2022 Bonds in an aggregate principal amount of \$16,000,000 for the purpose of financing a portion of the costs of the Project under this resolution (the "Bond Resolution"), and the execution and delivery of a funding loan agreement,

dated as of April 1, 2022 (the “Funding Loan Agreement”), by and between the Agency, Manufacturers and Traders Trust Company, as fiscal agent (the “Fiscal Agent”) and PNC Bank National Association as initial funding lender for the Series 2022 Bonds (the “Initial Funding Lender”), together with one or more endorsements provided therein; and

WHEREAS, the Agency will lease its interest in the Project Facility to the Company pursuant to a certain Lease Agreement, to be dated the appropriate date as agreed to by an authorized officer of the Agency (the “Lease Agreement”), pursuant to the terms of which Lease Agreement (A) the Company will agree (1) to cause the Project to be undertaken and completed, (2) as agent of the Agency, to undertake and complete the Project, (3) to lease the Project Facility from the Agency, and (4) to make certain rent payments (or cause such payments to be made) to or upon the order of the Agency in connection with the lease of the Project Facility, which rent payments shall include amounts equal to the debt service payments due on the Series 2022 Bonds, and (B) the Agency will agree to (1) undertake the Project, (2) appoint the Company as agent of the Agency to undertake and complete the Project, and (3) lease the Project Facility to the Company; and

WHEREAS, simultaneously with the issuance of the Series 2022 Bonds and the execution and delivery of the Lease Agreement, (A) the Company and the Agency will execute and deliver a certain company lease agreement, dated as of April 1, 2022 (the “Company Lease”) by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease the Land and the Facility to the Agency for a term ending on the completion of the Project, and (B) the Company and the Agency will execute and deliver (1) a certain payment in lieu of tax agreement, dated as of April 1, 2022 (the “Payment in Lieu of Tax Agreement”) by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility, (2) a certain recapture agreement (the “Section 875 GML Recapture Agreement”) by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes and (3) a certain uniform agency project agreement, dated as of April 1, 2022 (the “Uniform Agency Project Agreement”) relating to the granting of the Financial Assistance by the Agency to the Company; and

WHEREAS, as security for the Series 2022 Bonds, among other things, (i) the Guarantor (as such term is defined in the Funding Loan Agreement) will guaranty completion of construction of the Improvements pursuant to the term of a certain Guaranty of Completion – TEL, dated the Delivery Date, for the benefit of the Funding Lender (as that term is defined in the Funding Loan Agreement) (the “Completion guaranty”); (ii) the Guarantor will guaranty until completion of the Improvements the payment of a portion of the operating expenses of the Project pursuant to the terms of a certain Operating Deficit Guaranty – TEL, dated the Delivery Date, for the benefit of the Funding Lender (the “Operating Deficit Guaranty”); (iii) the Guarantor will guaranty payment and performance of certain non-recourse carve-out events until the Maturity Date pursuant to the terms of a certain Guaranty – Multistate – TEL, dated the Delivery Date, for the benefit of the Funding Lender (the “Non-Recourse Carve-out Guaranty”, and collectively with the Completion Guaranty and the Operating Deficit Guaranty, the “Guaranty”), dated the Delivery Date, for the benefit of the Funding Lender (as that term is defined herein) (the “Guaranty”); (iv) the Agency will assign to the Fiscal Agent substantially all of its rights under the Lease Agreement (except the Unassigned Rights), pursuant to a certain Pledge and Assignment, dated as of April 1, 2022, from the Agency to the Fiscal Agent (the “Pledge and Assignment”); and (v) the Agency and the Company shall grant to the Fiscal Agent, for the benefit of the Funding Lender, a mortgage lien on and security interest in the Project, both fee and leasehold, pursuant to a certain Multifamily Mortgage, Assignment Rents and Security Agreement, dated as of April 1, 2022, from the Agency and the Company to the Fiscal Agent (the “Security Instrument”); and

WHEREAS, Series 2022 Bonds will be initially purchased by the Initial Funding Lender pursuant to the Funding Loan Agreement. The Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise ("Freddie Mac"), has entered into a commitment with the Initial Funding Lender, dated April \_\_, 2022 (the "Freddie Mac Commitment"), whereby Freddie Mac has agreed to purchase the Funding Loan upon the date of satisfaction of the conditions set forth in the Freddie Mac Commitment (the "Freddie Mac Purchase Date"). On the Freddie Mac Purchase Date, the Initial Funding Lender will assign to Freddie Mac all of its rights and interest in the Series 2022 Bonds, the Funding Loan Agreement, the Continuing Covenant Agreement (as hereinafter defined) and the other Financing Documents (as defined in the Funding Loan Agreement); and

WHEREAS, on and after the Freddie Mac Purchase Date, Freddie Mac will act as the Funding Lender and the Funding Lender Representative with respect to the Funding Loan and the other Financing Documents (in such capacity and any successor in such capacity, the "Funding Lender Representative"). PNC Bank, National Association, as servicer (the "Servicer"), will act as initial servicer for the Funding Loan and the other Financing Documents on behalf of the Funding Lender Representative; and

WHEREAS, the Company will further enter into a Continuing Covenant Agreement, dated the Closing Date, with the Initial Funding Lender (the "Continuing Covenant Agreement"), which sets forth various other requirements with respect to the Project, and which agreement will be assigned to Freddie Mac on the Freddie Mac Purchase Date; and

WHEREAS, the Company will enter into a certain Tax Regulatory Agreement, dated the date of delivery of the Series 2022 Bonds (the "Tax Regulatory Agreement"), in which the Company will make certain representations and covenants, establish certain conditions and limitations and create certain expectations, relating to compliance with the requirements imposed by the Code and the Agency will execute a completed Internal Revenue Service ("IRS") Form 8038 (Information Return for Private Activity Bonds) relating to the Tax-Exempt Multifamily Housing Revenue Bonds (Nathan Galinsky Apartments Preservation LLC Project), Series 2022 ("Form 8038"), pursuant to Section 149(e) of the Code and will cause the Form 8038 to be filed with the IRS; and

WHEREAS, it is further contemplated that the Agency will (i) designate the Company as its agent for the purpose of undertaking the Project pursuant to the Lease Agreement, (ii) negotiate and enter into a the Lease Agreement and related Company Lease Agreement with the Company, pursuant to which the Agency will retain a leasehold interest in the Project Facility; and (iii) provide (a) an exemption benefit from all New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction, reconstruction and/or renovation, rehabilitation or equipping of the Facility, (b) a mortgage recording tax exemption benefit for the financing related to the Project, and (c) a real property tax abatement pursuant to the terms of the Payment in Lieu of Tax Agreement; and

WHEREAS, approval of the County Legislature of Herkimer County, being the highest elected official of Herkimer County, and an allocation of sufficient Volume Cap are required as conditions to the issuance of Series 2022 Bonds pursuant to the Code; and

WHEREAS, by a resolution executed by the County Legislature of Herkimer County (the "County Legislature") on February 16, 2022 (the "TEFRA Approval"), the County Legislature approved the issuance of the Series 2022 Bonds for purposes of Section 147(f) of the Code; and

WHEREAS, pursuant to Section 146 of the Code, in order for interest on the Series 2022 Bonds to be excludable from gross income of the holder thereof the Agency must allocate the private activity volume

cap ("Volume Cap") to the Series 2022 Bonds in an amount equal the face amount of the Series 2022 Bonds; and

WHEREAS, pursuant to a (i) a letter dated January 10, 2022, (ii) a letter dated February 18, 2022, and (iii) a letter dated March 15, 2022, each from the New York State Department of Economic Development, the Agency received an allocation of 2022 Volume Cap from the State in an amount equal to the maximum amount of Series 2022 Bonds expected to be issued; and

WHEREAS, the Agency has given due consideration to the Application and the representations by the Company that undertaking the Project and issuing the Series 2022 Bonds (a) will be an inducement to the Company to acquire, renovate, reconstruct, equip and operate the Project Facility in the Village of Herkimer, Herkimer County; and (b) will not result in the removal of any commercial, industrial, fabricating or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State; and

WHEREAS, the Agency has considered the policy, purposes and requirements of the Enabling Act in making its determinations with respect to taking official action regarding the Project; and

WHEREAS, as required by Section 2824(8) of the New York Public Authorities Law, the Agency's Finance and Audit Committee, on April 6, 2022, at 8:00 a.m., reviewed the proposal for the issuance of debt by the Agency related to the Project, recommended that the Agency undertake the Project and proceed with the issuance thereof, and determined that it is in the best interest of economic development in Herkimer County for the Agency to issue the Series 2022 Bonds.

NOW, THEREFORE, be it resolved by the Agency as follows:

Section 1. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration.

Section 2. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

Section 3. The Company has presented an Application in a form acceptable to the Agency. Based upon representations made by the Company to the Agency and any other correspondence submitted by the Company to the Agency, public hearing comments, if any, the Agency's review of and recommendations related to the Project and pursuant to the terms of the Preliminary Inducement Resolution, Agency board member review, discussion, and consideration of same, and such other information and investigation as the Agency has deemed appropriate, the Agency makes the following findings and determinations and hereby authorizes the undertaking of the Project and the provision of the Financial Assistance to the Company as described herein:

- (a) The Project constitutes a "project" within the meaning of the Act.

(b) The issuance of the Series 2022 Bonds and the grant of the other Financial Assistance will be an inducement to the Company to acquire, renovate, construct, equip and operate the Project Facility in the Village of Herkimer, Herkimer County, thereby advancing job opportunities, general prosperity and economic welfare of the people of the State and Herkimer County in furtherance of the Act.

(c) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, reconstructing and/or renovating and equipping the Project.

(d) The Agency has the authority to take the actions contemplated herein under the Act.

(e) (1) The Project does not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project, and accordingly the Project is not prohibited by the provisions of Section 862(2)(a) of the Act, and (2) accordingly the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act.

(f) The Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York.

(g) The Agency has prepared a written cost-benefit analysis identifying the extent to which the Project will create or retain permanent, private sector jobs, the estimated value of any tax exemption to be provided, the amount of private sector investment generated or likely to be generated by the Project, the likelihood of accomplishing the Project in a timely fashion, and the extent to which the Project will provide additional sources of revenue for municipalities and school districts, and any other public benefits that might occur as a result of the Project.

(h) It is desirable and in the public interest for the Agency to issue its Series 2022 Bonds to finance the costs of the Project, together with certain related costs, reserves and other amounts, in an aggregate amount of \$16,000,000.

(i) The Agency reasonably expects to reimburse the Company for expenses made for the Project from the Series 2022 Bonds.

(j) The Company has provided a written statement confirming that the Project as of the date of the Application is in substantial compliance with all provisions the Act.

(k) The issuance of the Series 2022 Bonds by the Agency with respect to the Project will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Herkimer County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act.

(l) The Project qualifies for Agency Financial Assistance as it is compliant with the Agency's Uniform Criteria for the Evaluation of Projects Policy and meets and is consistent with the Agency's evaluative criteria for projects, said criteria established by the Agency as required under General Municipal Law Section 859-a(5).

Section 4. The form and substance of the Series 2022 Bonds are hereby approved.

Section 5. The form and substance of the Funding Loan Agreement (or other similar document) (in substantially the form presented to this meeting) are hereby approved.

Section 6. The form and substance of the Lease Agreement (or other similar document) (in substantially the form presented to this meeting) are hereby approved.

Section 7. The form and substance of the Multifamily Mortgage, Assignment Rents, and Security Agreement and Pledge and Assignment (or other similar documents) (in substantially the forms presented to this meeting) are hereby approved.

Section 8. The form and substance of the Company Lease Agreement (or other similar document) (in substantially the form presented to this meeting) are hereby approved.

Section 9. The form and substance of the Tax Regulatory Agreement (or other similar document) (in substantially the form presented to this meeting) are hereby approved.

Section 10. The Chairman (or Vice Chairman) of the Agency are hereby appointed as authorized officers of the Agency (the "Authorized Officer") for purposes of the Project, including (a) negotiating and approving the form and substance of the various documents and (b) executing and delivering the documents; and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in the forms thereof as the Chairman (or Vice Chairman), as Authorized Officer, shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

Section 11. The Agency hereby authorizes its Authorized Officer to approve the Funding Loan Agreement, in a form consistent with the intent and substance of this resolution, such approval to be conclusively evidenced by the execution of the Funding Loan Agreement by the Authorized Officer in accordance with Section 17 hereof.

Section 12. The Agency hereby authorizes its Authorized Officer to approve the Lease Agreement, in a form consistent with the intent and substance of this resolution, such approval to be conclusively evidenced by the execution of the Lease Agreement by the Authorized Officer in accordance with Section 17 hereof.

Section 13. The Agency hereby authorizes its Authorized Officer to approve the Multifamily Mortgage, Assignment Rents and Security Agreement and Pledge and Assignment, in a form consistent with the intent and substance of this resolution, such approval to be conclusively evidenced by the execution of the Multifamily Mortgage, Assignment Rents and Security Agreement and Pledge and Assignment by the Authorized Officer in accordance with Section 17 hereof.

Section 14. The Agency hereby authorizes its Authorized Officer to approve the Company Lease Agreement, in a form consistent with the intent and substance of this resolution, such approval to be conclusively evidenced by the execution of the Company Lease Agreement by the Authorized Officer in accordance with Section 17 hereof.

Section 15. The Agency hereby authorizes the Authorized Officer to approve the Tax Regulatory Agreement, in a form consistent with the intent and substance of this resolution, such approval to be conclusively evidenced by the execution of the Tax Regulatory Agreement by the Authorized Office in accordance with Section 17 hereof.

Section 16. The Agency hereby determines to execute the Form 8038 in such form as is hereafter approved by the Authorized Officer in accordance with Section 17 hereof, and to file the same with the IRS.

Section 17. (a) The Authorized Officer is hereby authorized, on behalf of the Agency, to execute and deliver the Lease Agreement, the Multifamily Mortgage, Assignment Rents and Security Agreement, the Pledge and Assignment, the Company Lease Agreement, the Tax Regulatory Agreement, the Series 2022 Bonds and any document or instrument necessary and incidental thereto as approved by Bond Counsel to the Agency (hereinafter collectively called the "Financing Documents"), and the Secretary of the Agency is hereby authorized to affix the seal of the Agency thereto where appropriate and to attest the same, all in substantially the forms thereof presented to this meeting with such changes (including without limitation any change in the dated date of such documents), variations, omissions and insertions as the Authorized Officer shall approve. The execution of the Financing Documents and the Form 8038 by the Authorized Officer shall constitute conclusive evidence of such approval.

(b) The Authorized Officer is hereby further authorized and directed, on behalf of the Agency, to approve, without further action of the Agency, any variations in the terms of the Series 2022 Bonds from those set forth in the form of Series 2022 Bond, respectively, submitted to this meeting, including, without limitation, the aggregate principal amounts of the Series 2022 Bonds (not in excess of the maximum aggregate principal amount authorized in Section 3(h) of this resolution), the interest rates, maturities, redemption premiums, optional redemption dates and sinking fund redemption dates and amounts. The execution and delivery of the Funding Loan Agreement by the Authorized Officer shall constitute conclusive evidence of such approval.

(c) The Authorized Officer is further hereby authorized, on behalf of the Agency, to designate any additional authorized representatives of the Agency.

Section 18. The officers, employees, and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided by the provisions of the Financing Documents, and to execute and deliver all such additional certificates, instruments and documents, including the Financing Documents and the Form 8038, and to do all such further acts as may be necessary or in the opinion of the officer, employee, or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants, and provisions of the Financing Documents binding upon the Agency.

Section 19. Subject to the conditions set forth herein and the Company executing the Uniform Agency Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of insurance for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, renovation, construction, upgrading and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, renovate, reconstruct, upgrade and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such Agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf, provided, however, the appointment of the Company as agent of the Agency, if utilized, shall expire one year from the date of this resolution (unless extended for good cause by the Authorized Officer). With respect to the foregoing, and based upon the representations and warranties made by the Company in its application for Financial Assistance, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would

otherwise be subject to New York State and local sales and use tax, which may result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed \$400,000.

The Agency may consider any requests by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services. Pursuant to Section 875(3) of the Act, and per the policies of the Agency, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any New York State and local sales and use tax exemption benefits, and/or mortgage recording tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the State and local sales and use tax exemption benefits; (ii) the State and local sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the State and local sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; (iv) the Company has made a material false statement on its application for Financial Assistance; and/or (v) the State and local sales and use tax exemption benefits and/or mortgage recording tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with the Company commitments as identified in the Uniform Agency Project Agreement, being a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving Financial Assistance, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must (i) cooperate with the Agency in its efforts to recover or recapture any Financial Assistance, and (ii) promptly pay over any such amounts to the Agency that the Agency demands. As an additional condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain its commitments, submit, on an annual basis or as otherwise indicated below through the conclusion of the later of two (2) years following either (i) the construction completion date, or (ii) the termination of the Uniform Agency Project Agreement, a certification, as so required by the Agency confirming compliance with the Company commitments identified in the Uniform Agency Project Agreement.

Section 20. Subject to the terms of this resolution, the Authorized Officer is hereby authorized, on behalf of the Agency, to negotiate, execute and deliver (a) the Uniform Agency Project Agreement, (b) the Lease Agreement whereby the Company leases the Project to the Agency, (c) the related Company Lease Agreement whereby the Agency leases the Project back to the Company, and (d) related documents; provided, however, that the rental payments under the Lease Agreement to the Company include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

Section 21. Subject to the conditions set forth herein and in the last sentence of this Section 21, the Agency will (a) issue the Series 2022 Bonds in such principal amount and with such maturities, interest rate or rates, redemption terms and other terms and provisions as may be determined by the Agency; (b) acquire a leasehold interest in the Project Facility and acquire, renovate, reconstruct, equip and install the Project Facility; (c) lease with an obligation to purchase or sell the Project Facility to the Company or its designee pursuant to an agreement to be entered into between the Agency and the Company whereby

the Company will be obligated, among other things, to make payments to the Agency in amounts and at a time so that such payments will be adequate to pay the principal of, premium, if any, and interest on the Series 2022 Bonds; (d) secure the Series 2022 Bonds in such manner as the Agency, the Company and the purchaser(s) of the Series 2022 Bonds mutually deem appropriate and (e) grant the other Financial Assistance. The Issuance of the Series 2022 Bonds and the grant of the other Financial Assistance contemplated by this Resolution are subject to (i) obtaining all necessary governmental approvals; (ii) agreement by the Agency, the Company and the purchaser(s) of the Series 2022 Bonds upon mutually satisfactory terms for the Series 2022 Bonds (and any such additional bonds) and for the sale and delivery thereof; (iii) the condition that there are no changes in the Code and State Law, including regulations thereunder, which prohibit or limit the Agency from fulfilling its obligations hereunder; and (iv) payment by the Company of the Agency's Bond Issuance Fee, the State Bond Issuance Charge and all costs and expenses of the Agency with respect to the Series 2022 Bond transaction and the granting of the other Financial Assistance.

Section 22. Subject to the conditions contained within this Resolution and the acceptance by the Company of this Resolution, the Company is appointed the true and lawful agent of the Agency (1) to acquire, renovate, reconstruct equip and install the Project Facility, and (2) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent of the Agency, and in general to do all things which may be requisite or proper for acquiring, renovating, reconstructing, equipping and installing the Project Facility, all with the same powers and same validity as if the Agency were acting on its own behalf.

Section 23 The law firm of Hodgson Russ LLP is hereby appointed bond counsel to the Agency in relation to the proposed issuance of the Series 2022 Bonds contemplated by the Application.

Section 24. The Agency hereby declares that this Resolution shall represent its declaration of "official intention" in accordance with Treasury Regulation Section 1.150-2. The Agency reasonably expects to reimburse the Company for its expenditures incurred in connection with the Project Facility with the proceeds of the Series 2022 Bonds.

Section 25. Bond counsel for the Agency are hereby authorized to work with the Company, the purchaser(s) of the Series 2022 Bonds and others to prepare, for submission to the Agency, all documents necessary to effect the authorization, issuance, sale and delivery of the Series 2022 Bonds.

Section 26. The Authorized Officer is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 27. No covenant, stipulation, obligation or agreement contained in this Resolution shall be deemed to be the covenant, stipulation, obligation or agreement of any member, director, agent or employee of the Agency in his or her individual capacity and neither the member or directors of the Agency nor any officer executing the Series 2022 Bonds shall be liable personally on the Series 2022 Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. Neither the member, directors or officers of the Agency, nor any person executing the Series 2022 Bonds or other documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof. The Series 2022 Bonds and the interest therein shall not be a debt of the State or Herkimer County or any political subdivision thereof (other than the Agency), and none of the State, Herkimer County nor any political subdivision thereof (other than the Agency) shall be liable thereon. The Series 2022 Bonds shall be issued solely for the purposes set forth in this Resolution. The Series 2022 Bonds and the interest thereon shall constitute a special, limited

obligation of the Agency payable solely from the revenues derived or to be derived from the lease or sale of the Project Facility and from the enforcement of the security pledged to the payment of the Series 2022 Bonds.

Section 28. Any expense incurred by the Agency with respect to the Project and the financing thereof shall be reimbursed out of the proceeds of the Series 2022 Bonds or, in the event such proceeds are insufficient after payment of other costs of the Project, or the Series 2022 Bonds are not issued by the Agency for any reason whatsoever, shall be paid by the Company. By acceptance hereof, the Company hereby agrees to pay such expenses and further agrees to indemnify the Agency, its members, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency with respect to the Project and the financing thereof.

Section 29. The provision by the Agency of Financial Assistance with respect to the Project as described herein is subject to the payment of the Agency's Administrative Fee (the "Administrative Fee") calculated in accordance with the Agency's terms, one-half of which was collected at the time of execution and delivery of the Preliminary Inducement Agreement by and between the Agency and the Company, and the other half of which within sixty (60) days of the date of Closing. In the event the Agency has not received the remaining Administrative Fee within such sixty (60) day period, this resolution shall become automatically null and void and of no further effect and the Agency shall have no liability to the Company hereunder or otherwise, unless extended in the discretion of the Authorized Officer for good cause shown.

Section 30. This resolution shall take effect immediately.

The question of the adoption of the foregoing Bond Resolution was duly put to a vote on roll call, which resulted as follows:

Vincent Jim Bono	VOTING	<u>YES</u>
David Chlus	VOTING	<u>ABSENT</u>
John Scarano	VOTING	<u>YES</u>
Michael Werenczak	VOTING	<u>YES</u>
Ann Gaworecki	VOTING	<u>YES</u>
Catherine Ricci	VOTING	<u>YES</u>
Cory Albrecht	VOTING	<u>YES</u>

The foregoing resolution was thereupon declared duly adopted.

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STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF HERKIMER                )

I, the undersigned (~~Assistant~~) Secretary of Herkimer County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the resolution contained therein, held on April 6, 2022 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Chapter 417 of the Laws of 2021, as amended on January 14, 2022 (the "2022 Laws"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given; and (D) there was a quorum of the members of the Agency, either in person or attending remotely in accordance with the 2022 Laws, throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 6<sup>th</sup> day of April, 2022.

  
\_\_\_\_\_  
(Assistant) Secretary

(SEAL)